

accompanying sharing thresholds. Indeed, to the extent that Petitioners' refusal to apply the add-back rule in previous years resulted in a windfall to them in those years, the Add-Back Order allows Petitioners to keep that windfall. Petitioners simply will not be permitted to collect a new windfall in 1995-96 and beyond by misapplying the sharing mechanism.

### **CONCLUSION**

For the foregoing reasons, the petitions for review should be denied.

Respectfully submitted,

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**TABLE 1****Elaboration Of Petitioners' Example, Without Add-Back**

<u>Sharing Obligation</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>
(a) Gross Earnings Before Sharing	13.25m	12.75m	12.5m	12.375m
(b) Amount Subject to Sharing	1m	.5m	.25m	.125m
(c) Amount of Sharing Obligation	.5m	--	.125m	--
(d) Cumulative Amount of Sharing Obligation	.5m	.5m	.625m	.625m
(e) Cumulative Amount Subject to Sharing	1m	1.5m	1.75m	1.875m
(f) Cumulative Effective Sharing Rate	50%	33%	28%	33%
<u>Net Earnings</u>				
(g) Net Earnings After Sharing (Accrual Basis)	12.75m	12.75m	12.25m	12.25m
(h) Cumulative Net Earnings After Sharing (Accrual Basis)	12.75m	25.5m	37.75m	50.0m
(i) Net Earnings After Sharing (Cash Basis)	13.25m	12.25m	12.5m	12.25m
(j) Cumulative Net Earnings After Sharing (Cash Basis)	13.25m	25.5m	38.0m	50.25m

**TABLE 2**

Elaboration Of Petitioners' Example, With Add-Back

<u>Sharing Obligation</u>	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>
(a) Gross Earnings Before Sharing (millions)	13.25m	12.75m	12.5m	12.375m
(b) Amount Subject to Sharing	1m	.5m	.25m	.125m
(c) Amount of Sharing Obligation	.5m	.25m	.125m	.0625m
(d) Cumulative Amount of Sharing Obligation	.5m	.75m	.875m	.9375m
(e) Cumulative Amount Subject to Sharing	1m	1.5m	1.75m	1.875m
(f) Cumulative Effective Sharing Rate	50%	50%	50%	50%
<u>Net Earnings</u>				
(g) Net Earnings After Sharing (Accrual Basis)	12.75m	12.50m	12.375	12.3125m
(h) Cumulative Net Earnings After Sharing (Accrual Basis)	12.75m	25.25m	37.625	49.9375m
(i) Net Earnings After Sharing (Cash Basis)	13.25m	12.25m	12.25m	12.25m
(j) Cumulative Net Earnings After Sharing (Cash Basis)	13.25m	25.5m	37.75m	50.0m

**TABLE 3**  
**Comparison of Sharing Obligations With and Without Add-Back**  
**And Assuming Constant Gross Earnings**

	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>	<u>Year 4</u>
<b><u>"Check-Writing" Sharing Mechanism</u></b>				
(a) Earnings Without Sharing or Add-Back	13.25m	13.25m	13.25m	13.25m
(b) Amount Subject to Sharing	1m	1m	1m	1m
(c) Amount Shared		0.5m	0.5m	0.5m
(d) Net Earnings (Cash Basis)	13.25m	12.75m	12.75m	12.75m
(e) Cumulative Amount Shared		0.5m	1m	1.5m
<b><u>Commission's Sharing Mechanism</u></b>				
<b><u>Without Add-Back</u></b>				
(f) Earnings After Sharing, But Without Add-Back	13.25m	12.75m	13.00m	12.875m
(g) Amount Subject to Sharing	1m	0.5m	0.75m	0.625m
(h) Amount Shared		0.5m	0.25m	0.375m
(i) Net Earnings (Cash Basis)	13.25m	12.75m	13.00m	12.875m
(j) Cumulative Amount Shared		0.5m	0.75m	1.125m
<b><u>With Add-Back</u></b>				
(k) Earnings After Sharing And Add-Back	13.25m	13.25m	13.25m	13.25m
(l) Amount Subject to Sharing	1m	1m	1m	1m
(m) Amount Shared		0.5m	0.5m	0.5m
(n) Net Earnings (Cash Basis)	13.25m	12.75m	12.75m	12.75m
(o) Cumulative Amount Shared		0.5m	1m	1.5m

CERTIFICATE OF SERVICE

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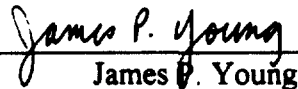
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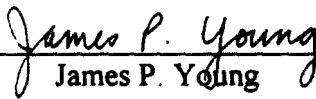
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CERTIFICATE OF COMPLIANCE WITH CIRCUIT RULE 28(D)(1)

I, James P. Young, hereby certify that the foregoing Joint Brief of Intervenors Supporting the Performance Review Order complies with the requirements of D.C. Circuit Rule 28(d)(1), and with the Court's Orders of August 2 and September 7, 1995, establishing word limitations for briefs in these consolidated cases.

  
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